

### Remarks

Claims 1-58 are pending. Claims 1-58 are rejected.

#### Information Disclosure Statement

Applicants filed Information Disclosure Statements (IDSs) on May 6, 2004, July 28, 2005, November 2, 2006 and December 27, 2006, respectively. However, **the IDSs filed on May 6, 2004, and December 27, 2006 have not been returned to the Applicants. Applicants respectfully request the Examiner to sign off and return to Applicants these IDSs.**

In the returned IDS filed on November 2, 2006, **the Examiner did not initial references A58-A68 and B1-B5. Applicants respectfully request the Examiner to initial these references and return to us again the IDS filed on November 2, 2006.**

#### Rejections under 35 U.S.C. § 103

Claims 1-58 are rejected under 35 U.S.C. §103(a) as being obvious over WO 03/022323 A1 by Pacetti et al. ("Pacetti") in view of WO 98/32398 A1 by Roby et al. ("Roby").

Claim 1 defines a method for forming a poly(ester amide) (PEA) coating with enhanced mechanical and release rate properties. The method includes (a) applying to an implantable device a solution or suspension of a composition comprising **PEA and a low surface energy, surface blooming polymer**, and (b) forming a coating on the implantable device comprising PEA and the low surface energy, surface blooming polymer. **The low surface energy, surface blooming polymer includes a PEA miscible block or PEA miscible backbone.**

Pacetti describes a coating for reducing the release rate of a therapeutic agent from the coating. The coating includes a polymer capable of maintaining its crystalline lattice structure while the therapeutic agent is released from the coating. As the Examiner correctly notes, Pacetti does not describe a coating that includes a PEA.

The Examiner alleges that a crystalline polymer is a low surface energy polymer. Applicants respectfully submit that the question of whether a polymer is a crystalline polymer so as to make it a low surface energy polymer misses the point. **The low surface energy, surface blooming polymer as defined in claim 1 is defined to include a PEA miscible block or PEA miscible backbone. This attribute is clearly missing in Pacetti.**

Roby describes the preparation of a poly(ester amide) (PEA) polymer that can be used for fabrication of surgical devices. However, **there is no teaching or description in Roby of a coating comprising a composition that comprises a PEA polymer and a low surface energy, surface blooming polymer that includes a PEA miscible block or PEA miscible backbone.** Pacetti and Roby, individually or combined, fail to describe or teach these elements. Therefore, claim 1 is patentably allowable over Pacetti and Roby, individually or combined, under 35 U.S.C. 103(a). Claims 2-7 and 53 depend from claim 1 and are patentable over Pacetti and Roby, individually or combined, under 35 U.S.C. 103(a) for at least the same reason.

Claim 8 defines a method of forming a coating having **a PEA polymer and at least one low surface energy polymer additive. The at least one low surface energy polymer additive comprises a PEA miscible block or PEA miscible backbone.** As discussed above, Pacetti and Roby, individually or combined, fail to describe or teach these elements. Therefore, claim 8 is patentably allowable over Pacetti and Roby, individually or combined, under 35 U.S.C. 103(a). Claims 9-11 and 54 depend from claim 8 and are patentable over Pacetti and Roby, individually or combined, under 35 U.S.C. 103(a) for at least the same reason.

Claim 12 defines coating composition for coating an implantable device. The composition comprises **a poly(ester amide) (PEA) and a low surface energy, surface blooming polymer. The low surface energy, surface blooming polymer comprises a PEA**

**miscible block or PEA miscible backbone.** As discussed above, Pacetti and Roby, individually or combined, fail to describe or teach these elements. Therefore, claim 12 is patentably allowable over Pacetti and Roby, individually or combined, under 35 U.S.C. 103(a). Claims 13-18 and 55 depend from claim 12 and are patentable over Pacetti and Roby, individually or combined, under 35 U.S.C. 103(a) for at least the same reason.

Claim 19 defines a coating having **a PEA polymer and at least one low surface energy polymer additive. The at least one low surface energy polymer additive comprises a PEA miscible block or PEA miscible backbone.** As the discussion of claim 8 shows, Pacetti and Roby, individually or combined, fail to describe or teach these elements. Therefore, claim 19 is patentably allowable over Pacetti and Roby, individually or combined, under 35 U.S.C. 103(a). Claims 20-22 and 56 depend from claim 19 and are patentable over Pacetti and Roby, individually or combined, under 35 U.S.C. 103(a) for at least the same reason.

Claim 23 defines a medical device comprising a coating which comprises **a poly(ester amide) (PEA) and a low surface energy, surface blooming polymer. The low surface energy, surface blooming polymer comprises a PEA miscible block or PEA miscible backbone.** As discussed above, Pacetti and Roby, individually or combined, fail to describe or teach these elements. Therefore, claim 23 is patentably allowable over Pacetti and Roby, individually or combined, under 35 U.S.C. 103(a). Claims 24-29, 34-38, 41, 42, 45-49, 51 and 57 depend from claim 23 and are patentable over Pacetti and Roby, individually or combined, under 35 U.S.C. 103(a) for at least the same reason.

Claim 30 defines a medical device comprising a coating having **a PEA polymer and at least one low surface energy polymer additive. The at least one low surface energy polymer additive comprises a PEA miscible block or PEA miscible backbone.** As discussed above,

Pacetti and Roby, individually or combined, fail to describe or teach these elements. Therefore, claim 30 is patentably allowable over Pacetti and Roby, individually or combined, under 35 U.S.C. 103(a). Claims 31-33, 39, 40, 43, 44, 50, 52 and 58 depend from claim 30 and are patentable over Pacetti and Roby, individually or combined, under 35 U.S.C. 103(a) for at least the same reason.


The undersigned authorizes the examiner to charge any fees that may be required or credit of any overpayment to be made to Deposit Account No. 07-1850.

Withdrawal of the rejection and allowance of the claims are respectfully requested. **If the Examiner has any suggestions or amendments to the claims to place the claims in condition for allowance, applicant would prefer a telephone call to the undersigned attorney for approval of an Examiner's amendment.** If the Examiner has any questions or concerns, the Examiner is invited to telephone the undersigned attorney at (415) 393-9885.

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Respectfully submitted,

Squire, Sanders & Dempsey L.L.P.  
One Maritime Plaza, Suite 300  
San Francisco, CA 94111  
Telephone (415) 393-9885  
Facsimile (415) 393-9887



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Zhaoyang Li, Ph.D.  
Reg. No. 46,872